

ORDINANCE NO. 2014-577

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE BAL HARBOUR VILLAGE CODE OF ORDINANCES BY CREATING SECTION 11-4 "PROHIBITION OF POLYSTYRENE" OF CHAPTER 11 "NUISANCES" OF THE VILLAGE CODE TO PROHIBIT THE USE OF POLYSTYRENE WITHIN CERTAIN AREAS OF THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Bal Harbour Village ("Village") declares that it is in the interest of the public health, safety, and welfare of its residents and visitors to reduce litter and pollutants on the land and in the waters of the Village; and

WHEREAS, expanded polystyrene, a petroleum by-product commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years to degrade in the environment; and

WHEREAS, expanded polystyrene is a common pollutant, which fragments into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife, thus harming or killing them; and

WHEREAS, due to the physical properties of expanded polystyrene, the EPA states that such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy; and

WHEREAS, disposable food service articles constitute a portion of the litter on the Village streets, beaches, public places and waterways; and

WHEREAS, the Village's goal is to replace expanded polystyrene food service articles with reusable, recyclable or compostable alternatives; and

WHEREAS, the Village encourages the use of unbleached, non-coated, recycled-content, paper food service articles and other fiber-based food service articles as the most environmentally preferable alternatives when the use of reusable food ware is not feasible; and

WHEREAS, as an environmental leader among local governments in the State of Florida, Bal Harbour Village by virtue of this Ordinance will prohibit the use of expanded polystyrene food service articles by its contractors and special event permittees on Village property and will prohibit the use of expanded polystyrene food service articles by beachside cafes; and

WHEREAS, this Ordinance will preserve and enhance the environment of Bal Harbour Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AS FOLLOWS:

Section 1. Recitals. That the above stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended. That Chapter 11 "Nuisances" of the Bal Harbour Village Code of Ordinances is hereby amended by adopting and adding new Section 11-4 "Prohibitions of Polystyrene" which shall read as follows:

Section 11-4 Prohibitions of Polystyrene.

- (a) *Legislative intent.* Expanded polystyrene, a petroleum byproduct commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years to degrade. Expanded polystyrene is a common pollutant, which fragments into smaller, non-biodegradable pieces that are harmful to marine life, other wildlife, and the environment. The Village's goals are to reduce the use of expanded polystyrene and encourage the use of reusable, recyclable, or compostable alternatives.
- (b) *Definitions.* For purposes of this section only the following definitions shall apply:
 - (1) *Village contractor* means a contractor, vendor, lessee, concessionaire of the Village, or operator of a Village facility or property.
 - (2) *Expanded polystyrene* means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including but not limited to fusion of polymer spheres (expandable bead foam), infection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene).
 - (3) *Expanded Polystyrene Containers* means plates, bowls, cups, containers, lids, trays, coolers, ice chests, and all similar articles that consist of expanded polystyrene.
 - (4) *Village Property* includes, but is not limited to, any buildings, structures, parks, land owned, operated, or managed by the Village as well as any beaches located within the geographic boundaries of the Village.
 - (5) *Special Event Permittee* means any person or entity issued a special event permit by the Village for a special event on Village Property.
- (c) *Prohibited Use Of Expanded Polystyrene:*
 - (1) It shall be unlawful for any person to carry an Expanded Polystyrene Container onto any beach within the Village.

- (2) It shall be unlawful for any business located within the Village to provide the service or delivery of any beverage or food item contained in an Expanded Polystyrene Container to patrons on Village Property.
- (3) Village contractors and Special Event Permittees shall not, sell, use, provide food in, or offer the use of Expanded Polystyrene within the Village. A violation of this section shall be deemed a default under the terms of the Village contract, lease or concession agreement and is grounds for revocation of a special event permit. This subsection shall not apply to Expanded Polystyrene Containers used for prepackaged food that have been filled and sealed prior to receipt by the Village contractor or Special Event Permittee.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. That it is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Bal Harbour Village Code of Ordinances; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

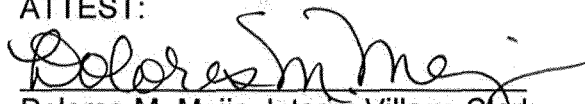
Section 5. Effective Date. That this Ordinance shall become effective immediately following adoption on second reading upon hereof.

PASSED AND ADOPTED on first reading this 21st day of October, 2014.

PASSED AND ADOPTED on second reading this 18th day of November, 2014.


Mayor

ATTEST:


Dolores M. Mejia, Interim Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:


Village Attorney

